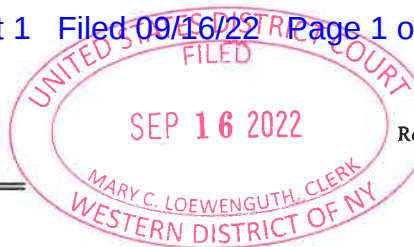


**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**



Revised 07/07 WDNY

Edward B. Kirkwood

Jury Trial Demanded: Yes ☒ No ☐

Name(s) of Plaintiff or Plaintiffs

Buffalo & Erie County
Naval & Military Park

Name of Defendant or Defendants

DISCRIMINATION COMPLAINT

-CV-

22 CV 703 -V

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, AND a copy of the **"Right to Sue"** letter you received from the EEOC to this complaint. Failure to do so may delay your case.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

This action is brought for discrimination in employment pursuant to (check only those that apply):

☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

JURISDICTION is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).

X

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

PARTIES

1. My address is: 347 Shirley Ave Buffalo 14215

My telephone number is: 716 248-4738

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: Naval & military Park

Number of employees: 100

Address: 1 Naval Marina Park South Buffalo
NY 14202

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: Paul MarZello

Address: 1 Naval Marina Park South Buffalo

CLAIMS

4. I was first employed by the defendant on (date): I was Not Working over
33 years

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: 12/17/17
at 4:49 pm
6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred (if any did): 12/9/15
7. I believe that the defendant(s)
- a. X Are still committing these acts against me.
b. _____ Are not still committing these acts against me.
(Complete this next item **only** if you checked "b" above) The last discriminatory act against me occurred on (date) _____
8. (Complete this section **only** if you filed a complaint with the New York State Division of Human Rights)
- The date when I filed a complaint with the New York State Division of Human Rights is 8/12/20
(estimate the date, if necessary)
- I filed that complaint in (identify the city and state): BUFFALO NY
- The Complaint Number was: 10213647
9. The New York State Human Rights Commission did X /did not _____ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is: May of 2019
11. The Equal Employment Opportunity Commission did X /did not _____ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: 8/23/2022. (NOTE: If it

did issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. ☒ Failure to provide me with reasonable accommodations to the application process
- b. ☐ Failure to employ me
- c. ☒ Termination of my employment
- d. ☒ Failure to promote me
- e. ☒ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
- f. ☐ Harassment on the basis of my sex
- g. ☒ Harassment on the basis of unequal terms and conditions of my employment
- h. ☒ Retaliation because I complained about discrimination or harassment directed toward me
- i. ☒ Retaliation because I complained about discrimination or harassment directed toward others
- j. ☐ Other actions (please describe)

PERSONNEL EVALUATION
did not start until 12/9/15
does not match my history

14. Defendant's conduct is discriminatory with respect to which of the following (check all that apply):

- a. ☒ Race
- b. ☒ Color
- c. ☐ Sex
- d. ☒ Religion
- e. ☒ National Origin
- f. ☐ Sexual Harassment
- g. ☒ Age 6/22/1968 Date of birth
- h. ☒ Disability
 Are you incorrectly perceived as being disabled by your employer?
☒ yes ☐ no

15. I believe that I was ☒ /was not ☐ intentionally discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are X is not/are not _____ still committing these acts against me. (If you answer is that the acts are not still being committed, state when: _____ and why the defendant(s) stopped committing these acts against you: _____)

17. **A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim.** (NOTE: You **must** attach a copy of the **original complaint** you filed with the Equal Employment Opportunity Commission and a copy of the **Equal Employment Opportunity Commission affidavit** to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (*check one*):

_____ **has not** issued a Right to sue letter

_____ **has** issued a Right to sue letter, which I received on 8/23/2022

19. State here as briefly as possible the *facts* of your case. Describe how each defendant is involved, including *dates* and *places*. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (*Use as much space as you need. Attach extra sheets if necessary.*)

see Attment

FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct _____ 60 days or more have elapsed X less than 60 days have elapsed

FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on 12/9/15)

22. The date on which I first asked my employer for reasonable accommodation of my disability is OCTOBER 3RD 2018
23. The reasonable accommodations for my disability (if any) that my employer provided to me are: did NOT
24. The reasonable accommodation provided to me by my employer were ____/were not X effective.

WHEREFORE, I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Dated: 9/16/2022 Edward B Kirkwood

Plaintiff's Signature



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office
33 Whitehall St, 5th Floor
New York, NY 10004
(929) 506-5270
Website: www.eeoc.gov

DISMISSAL AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 08/23/2022

To: Edward Kirkwood
347 Shirley Avenue
Buffalo, NY 14215

Charge No: 16G-2022-02896

EEOC Representative and email: Holly Shabazz
S/L Program Manager
HOLLY.SHABAZZ@EEOC.GOV

DISMISSAL OF CHARGE

The EEOC is closing this charge because your charge was not filed within the time limits under the law; in other words, you waited too long after the date of the alleged discrimination to file your charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated your charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission,

Digitally Signed By: Timothy Riera
08/23/2022

Timothy Riera
Acting District Director

9. Description of alleged discrimination

Tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and explain why you think it was discriminatory. TYPE OR PRINT CLEARLY.

To whom it may concern, I am reaching out to you about a wrongful termination and denials of compensation and unemployment benefits. I was forced to take part in an in house investigation that had nothing to do with me. I was questioned by Jerzy Galazka and Bill Barton. Before the investigation took place, I had already submitted a letter about my backpay, raise, and vacation days. After I submitted the letter, things at work changed. I was told by Jerzy to come forward with information that he assumed I had. I was setting up for the board meeting when he was talking to me, he noticed John Branning was heading to where we had our meetings. He asked me why John was there and why the door lead to his office. I said to him "John is known for eavesdropping and manipulating situations." John had already said to Rasheeda Law (716-936-3191), Rashaad Ali (716-465-8183), and I that he was going to record the meeting to tell the Captain what was being said and that if we told Jerzy he would just deny it all anyways. On October 19, 2017, I was working a triple shift. As I was changing into my uniform, I slipped in the showers at work and jammed both of my feet. When I reported it to John Branning, he said there was nothing I could do about the broken toe because he couldn't afford me taking time off. That made me write the letter about my accrued time and that I needed time off. On March 27th, 2019, I had another work related injury. I fell through the floorboards of the submarine, John and even other employees saw me, yet never filed an accident report. This lead to me having back injuries and many other injuries that made it difficult to get to work. April 30th is when I finally couldn't take any more, I ached everywhere and knew something was wrong. I told them I needed to schedule a doctor's appointment to see what was wrong. I left a message for JoAnn Maraschiello and sent John a message via text. After I was seen by my physician and came back with a Doctor's excuse I was terminated. Their excuse for terminating me was for not calling in, even though I called in beforehand. I think it's pretty strange that Jerzy offered me whistleblower protection for coming forward and Bill Barton stopped reaching out to me after I was terminated and that afterwards he became a board member. A short time before I was terminated we were given a new time clock, this time clock was having many issues and most of the staff was unable to use it meaning I still had to use the old one. They said I would no longer have to work seven days a week. On the weekend after April 30th I was feeling very ill still and could not work, there was an unscheduled party where there would be both adults and children on board. Paul Marzello and Rachel Marzello took it personally that I called off that night, even though I was told I wouldn't have to work that party. Furthermore, I was told I would never be in a situation where fire exits were blocked off and alcohol was being served while children were on board. There was another employee at the Naval Park who was wrongfully terminated by the name Ricky Ortiz, his phone number is 716-697-6047. I originally sent all of this information to the EEOC by hand back in 2019, to which I never got a claim number. I spoke to Supervisor Tammy Turner about this and she identified the person I gave the info to as Rachel. Rachel never gave me a last name or email but said she would email me a confirmation and has yet to do so.

If you need more space to write, please continue writing on a separate sheet of paper and attach it to the complaint form. DO NOT WRITE IN THE MARGINS OR ON THE BACK OF THIS FORM.

PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

Dated:

Buffalo, New York

STATE DIVISION OF HUMAN RIGHTS

By:

A handwritten signature in dark ink, appearing to read "Debbie S. Kent", written over a horizontal line.

Debbie S. Kent
Regional Director

Respondents: John Branning, Terry McGuire, Paul Marzello, Joann Drozek

I wish to receive my owed time and benefits for all I've done for the Naval Park. I am owed multiple awards and accrued time all taken from me by people who wish to tarnish my reputation and history within the Park. I also need compensation for the medical treatment I couldn't get for the injury caused due to the Park's negligence and for being put out of work during a crisis. Furthermore, I need people to actually sit down and look at the photographic and video evidence I have against the park. Their neglect, racism, and numerous other illegal and immoral practices have been ignored for far too long. I am even willing to take multiple polygraph tests along with the respondents. The Park is responsible for many unjust actions, for example, on December 15th, 2017; there was a party for the commissioning of the new Little Rock, where guests from Little Rock, Arkansas came aboard the ship. Many of the white employees at the Naval Park referred to it as a "whites only" Party. I was put in charge of most of the responsibilities and I wasn't allowed to bring guests upon the ship, despite numerous other white employees being able to. By the end of the party, a derogatory term was written on one of the museum's bathroom stalls and I was not asked to clean it up until nearly a year later. The only reason I was asked to clean it up was because there was going to be an investigation on October 3rd, 2018, and John Branning didn't want it to affect the Park's image. John was the perpetrator behind most of the acts taken during and pertaining to this party. Regarding the investigation on October 3rd, all three of the respondents forced me to sign a document I was unable to read by myself. Upon requesting a reading assistant for the document, I was told if I didn't sign I would no longer have a job. They were completely aware of my learning disability and took advantage of it to get what they wanted. I was unable to seek any legal counsel. Sheriff Higgins was a veteran on the Korean Association at the Park that I was very close to. He died on June 26th, 2018 and I was devastated when I heard the news. I took the day off on the day of his funeral to pay my respects and when Terry McGuire and Paul Marzello saw me there they asked "what the hell" I was doing there, saying that I should have been at work. At the funeral, Terry took me aside and told me that I "work for a place that doesn't have retirement." Not only was this completely

inappropriate to bring up at a funeral, but it was completely untrue, as I received part of my retirement quarterly and Terry was unfairly trying to take it away from me. Another completely inappropriate decision made by Joann Drozek and Paul Marzello was deciding to book parties during encampment days. I stressed the issue of serving alcohol aboard the ship while children were present but they were not listened to and I was forced to work parties where children were exposed to drinking. This isn't even the only unsafe working condition that the park has put me through, as John Branning made me clean asbestos without any equipment or training. I was forced to buy my own with the promise of a refund, which was only paid in half with Canadian money by John. The Park was also extremely neglectful and apathetic towards the injuries I suffered while working on the ship. On October 19th, 2017, I had slipped in the showers at work and ended up breaking one of my toes. John Branning would not let me take any time off in order to heal or fix this injury, stating he couldn't afford me taking any time off. Another injury that was completely out of my control happened on March 27th, 2019, when I fell through the floorboards on the submarine. Multiple employees, including John saw me fall, yet never filed an accident report. This injury, caused by the park's own negligence, eventually lead to me being unjustly terminated from the job. I had to call off of work on April 30th, 2019 to try and figure out what was wrong with me and try to heal, yet John claims I never did, despite me having proof. I was terminated on May 6th, 2019 and Paul Marzello refused to look at my doctor's excuse when I returned. I also have proof that they lied about the day I was fired in order to make sure I did not receive unemployment benefits. Lastly, the Park owes me many awards and accrued time. I began working summer youth at the Naval Park in 1987, eventually getting a full time job at the Naval Park. I worked at the Naval Park for over 3 decades and because of my roots in the Summer Youth program, Captain Roach said I deserved to be awarded the Most Valued Employee in the History of Buffalo, specifically for turning my summer job into a career. John however coincidentally started an issue with Don Alessi and Captain Roach, making Captain Roach resign. The other award I was recommended to receive was the Bos'n Curry award, since I was trained under him during his time at the Park. John once again got in the way of me receiving this award; by saying I did not deserve it. I was very offended

that John had any right to make this determination as I had been working at the Naval Park far longer than he had and knew all of the history behind the award. I find it extremely suspicious that on both of these occasions he went out of his way to get in the way of what I deserved. By the time I had left the Naval Park, I had mustered up 243 days and 15 hours' worth of accrued time, none of which I have received in any way, shape, or form. The Naval Park has gone out of their way not to give me what I am owed and Joann Drozek even attempted to try and lie about how much was truly owed to me. I will not sit idly and let the people I've worked for over 3 decades steal what is owed to me. The decision made on November 5th, 2019, to allow the Naval Park to get away with all of these acts of discrimination against me while not allowing me any compensation is unacceptable and should be reversed.

~~A. Brief Description of my history~~

The reason I am writing to you, is because I would like to try to get The Bosun Curry Award. I believe and know that I went above and beyond in every task handed to me for the 30 years I have been here.

Before I started working for the Naval Park, I was active in my own community. I used to work and volunteer at the YMCA on William and Emslie street. I did clerical work, filing and desk greetings. When that shift was over I opened and watched the young children play in the recreational room. Larry Stitts was an active leader and a role model of mine. One evening he came to me and asked me to come in to help out with the Senior Citizens. I was the D.J for that evening. Larry Stitts now owns his own coffee business on Jefferson ave. Then he eventually has opened another coffee spot in the University at Buffalo. Another active and important deed I worked with and for was Habitat for Humanity. I put in sweat hours demolishing basements, removing garbage from old abandoned houses, cutting siding, painting, and spackling walls. Dick Reading who is a Docent at the park did the cabinets for my house also works for Habitat for Humanity. I am now proud to be a home owner.

I started at the Naval Park's Summer Youth in 1987. This was when we were changing park directors from Lou Claypole to Commander Beck. Mrs. Nottingham, one of the major Supervisors at Summer Youth had a tough time fitting people for the Naval Park. After reviewing my records, she knew I would be a suitable candidate for this facility. When I arrived to the park I was fascinated with Bosun Curry and the ships. Seeing how he and Judge LoRusso had organized and wrote the blueprint for this facility amazed me. Tommy Dwyer gave me numerous painting jobs being it was a museum, I took pride in painting the ships knowing how

important and historical they were. They started me out with easy jobs and then worked me up to more difficult duties such as building the scaffold from the lake up to the ship.

I was so dedicated to working for the Servicemen's Park, Bosun Curry offered me an Encampment position as second cook in 1988. My partner Charlie Naulton, was first cook and retired Navy man. When Charlie moved around, I moved up to first cook and then greeter. Due to me rapidly climbing up the ladder, I was offered winter work. My first project full time was the Croaker.

In 1989 I was offered keys and Sonitrol codes. I learned all the ships in one day, so opening and closing was a piece of cake. I continued to work Encampment and work five days a week and only got straight pay. I learned through people like Tate Curry, Dolores Kwiatkowski, Mrs. Pzinskey, and Archie Payne. With them giving me pointers about the park and me being eager to listen, I was able to accelerate in all areas of the park.

As for me being one of the original worker of the Servicemen's Park, I was the last one to see the original Gold Star Mothers and to set up for their ceremony. I escorted the Gold Star Mothers to the mezzanine and served them coffee and sandwiches. I also assisted Jim Gillis and his wife because it was hard for him to move around because he was building model ships in front of students and he needed to easily move around the room. He built these ship all by hand. When the Sullivan's and Little Rock Associations were formed, my name was a household name because I was their gofer and go to guy. I worked along them in all their duties.

In 1993 Colonel Cunningham became the new Park Director. When he came in, Bosun Curry was close to retiring. Before he retired Curry made me Staff Duty Officer. He made his electrician Chief Slade, Ship Superintendent. I had great respect for Chief Slade but we did not

see eye to eye. He was a heavy drinker, he laid me off and hired all welfare workers to run the parking lot, and then he had to call me back in winter when I was laid off to fix the situation. I fixed the parking situation by having people park their trucks on the island and had the cars parked in the bays side by side so no one got blocked in. By parking the cars in this fashion made more room for more cars and more cars mean more revenue for the park. There was one day when Chief Slade opened up to me about his position of being in charge. The job was given to him by Bosun Curry because of his experience as a Navy man. He was a store keeper and made Chief in the Navy. But deep down Chief Slade did not want the position of Ship Superintendent. I told him not to worry about it and he was doing the best he could. He wanted to retire and he was thinking about hiring Chief Cole, our Encampment Duty Officer. But because of his bad decision making, the Board and Colonel were reluctant to take his recommendation. Chief Cole got impatient with waiting around hoping to get the position, so he left and ended up working at the post office. This left us with no Ship Superintendent and no Encampment Duty Officer. Due to them leaving my work load got extremely heavy. I had to take on full control of parking lots, encampments, maintenance load, and some of the ordering for the park. With all of the work I had to do around the park, I did not get extra pay nor did I complain.

At this point I had started supervising and mentoring people. The first person I have mentored was Chris Higgins also known as "Baby Higgins". He had two older brothers that I also worked with. From me knowing the brothers, it was easy for me to take Chris under my wing and teach him all that I knew about the park. Approximately a year later he got a civil service job as a Firefighter. Then the next two people I mentored were Shauna and Louis. Shauna, I knew her when she was a little girl and Dolores would bring her in all the time. When she got older she worked with me in the parking lots and then went back into the Ship store.

Little did she know I would be supervising her future husband. Louis worked with me in the parking lots as well. He was also a Summer Youth worker I was familiar with, and I knew his family from the neighborhood. Fast forward three years they got married and I was invited to Shauna and Louis's wedding. Now Shauna is a police dispatcher and Louis is a Buffalo Sheriff.

Richard Smith was the originally the Oil King on the Little Rock when he was in the Navy. Due to his experience on the Little Rock, the Board and Colonel figured they would give him a chance as Ship Superintendent. When he started, I trained him on the job. While I was training him he told me I could call him Dick. Out respect I told him I would call him Richard or Chief. After I trained him, he took what I taught him and he figured since he thought he knew what he was doing, he cleaned house. He got rid of everybody except for Charlie and me. He felt more comfortable hiring his own friends and family rather than hiring new people who had more experience and fit the job description. To this day they are still here. He cut up the old floating stage after I told not to and threw it out. He then gave us an old dingy boat to paint. This made painting impossible to do because the boat moved around too much and made it slightly impossible to paint up higher on the outside of the ships. I had to learn a new strategy by getting new painting equipment to make painting more comfortable for my needs. There were over \$3,000 worth of paint and he decided to shit can it and submit a new bill to Colonel. I could not allow this, but I knew I needed new paint for the PTF boat. So I turned the grey into forest green by using the left over colors to tint and change. Colonel and a few others loved the color of the boat and could not believe how close I got the color to the original green. Richard wanted it done professionally after I did all the work. He ordered the paint anyways and it was the wrong color green.

One day during Encampment there was a miscommunication among Encampment staff. They ended up going to a family reunion even though they were not members of the family. It was Charlie, his Aunt Catherine the cashier, and me. Those two were in the galley cooking for 300 people. While they were doing that, I parked the cars inside the gate, did the safety brief, the berthing, trip the fuse for the simulator because it was not working properly, and man the door of ship store as well (12 in and 12 out).

There was another time when it was a one man show. There was a film crew on the ship for the movie "Proud" that I worked with for three months straight, got a roll in the movie, and turned the Sullivan's ship into the US Mason. The same day I also had to park cars for the Sabre's game. I had to hike up the price of the parking lot because I could not make change because my apron was full of money and had to direct cars at the same time with no staff. Part of this time, Richard took two weeks' vacation while I held down the fort.

On May 11th, 2010, Captain Charlie Plumb came down to the Park for a photoshoot. Captain Charlie Plumb was a Fighter pilot and fought in Vietnam. His plane was shot down and he was captured and became a Prisoner of War for six years. In those six years he was tortured in the camps. Richard did not want to take time to come down and see what was going on with the photoshoot, so I took the reins and helped him out. I went to one of the exhibits that was in storage and got a flight jacket for him to wear for the photoshoot. He was so pleased that he gave me his autobiography that was personally signed by him for me. He wrote: "To my friend Ed Kirkwood, Thanks for all your help in setting up our photo shoot on May 11, 2010."

One day while I was painting yellow lines, it was the end of the day. As I was finishing up and getting ready to lock the ships the paint can slid across the table and splattered all over the bulkhead. The welding shield wrapped around the fire extinguisher and it started to spin. I

ran out the ammunition locker turned paint room. Then hopped the big gates and ran home. As I told the story to my grandmother, she said that was the ship she saw on "That's Incredible" in the Pennsylvania shipyard. My story and other people experiences that I knew about had made the History channel, MSNBC, and a book I am in called "Ghost Stories New York State". My story made us a popular attraction for Ghost Hunters. It has been a lucrative business for us. If it was not for my mother and Bosun Curry's words of encouragement, I would not be here today working for the Park. I remember what they told me. Bosun Curry told me "Do not let unexplainable things run your life. Spirits are all around us every day." My mother said the same thing.

I came back to work more determined than ever. I got passed the jokes and he wise cracks and continued working diligently for Colonel Cunningham from the day he started to the day he passed away. I will never forget crying at my mother's funeral and looking behind me to see Colonel Cunningham holding flowers for my mom. I will always honor and respect him for giving my mother and me a moment of respect. Before he passed Colonel Cunningham had requested for me to make videos for the park in which he was going to pay me. I overheard him tell John that I need to hurry up and give me a price. This made me very sad because I knew he knew his time was coming. To this day I am still honoring his request on making the videos for no monetary award.

CIVIL COVER SHEET

22 CV 703

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff ED B Kirkwood
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Naval Park
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

P. ROSE

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input checked="" type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 9/16/2022 SIGNATURE OF ATTORNEY OF RECORD

Edward Kirkwood

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____